

REMARKS

I. General Remarks

Applicant thanks the Examiner for acknowledging receipt of the Information Disclosure Statements filed on March 12, 2003, March 11, 2004 and June 1, 2004 and for indicating that the references listed therein have been considered. Applicant notes that the Examiner has not indicated receipt of the Information Disclosure Statement filed on February 27, 2002. Therefore, Applicant respectfully requests that the Examiner indicate consideration of the references listed in the February 27, 2002 Information Disclosure Statement in the next Office Action.

Applicant thanks the Examiner for acknowledging receipt of the priority documents by the PTO. Further, Applicant thanks the Examiner for indicating that claims 4-6 would be allowable if rewritten in independent form to include the limitations of the base claim and all intervening claims. For the reasons set out below, Applicant does not wish to rewrite these claims at this point.

Claims 1-6 are all the claims currently pending in the application. Claim 1 is the only independent claim. Claim 4 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant has amended claim 4 as set out above to address this rejection. Further, claims 1-3 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Uebayashi et al. (US 2003/0198205). Applicant traverses this rejection as follows.

II. Claims 1-3

With respect to the § 102(e) rejection, the Examiner relies on Uebayashi for allegedly disclosing “designating a communication quality” in requesting communication” and a radio network controller “to control the communication quality,” as recited in independent claim 1. In particular, the Examiner asserts that Uebayashi discloses a mobile terminal capable of designating a communication quality (high speed communications) in requesting communication and a radio network controller 412 which designates the communication quality from the mobile terminal. Applicant respectfully disagrees.

The referenced portion of Uebayashi does not disclose or address, in any manner, the “quality” of the communication. Instead, Uebayashi discloses the “quantity” of transmissions with respect to speed. Specifically, Uebayashi discloses controlling the band allocation between high speed communication channels and low speed communication channels. (Paragraph 0028). Bandwidth, of course, refers to the speed of, or capacity for, data transfer of an electronic communications system, especially the maximum data transfer rate of such a system.¹ On the other hand, Uebayashi fails to disclose, teach or suggest any form of signal transmission control related to the quality of the communication in terms of a measured error rate.

Independent claim 1 specifically recites the term “communication quality.” This term does not relate to the bandwidth of the given communication signal. Instead, as set out in the specification at pg. 8, lines 2-7, communication quality is based on the error rate in the radio

¹ Bandwidth (noun) - Merriam-Webster Online Dictionary. Similarly, bandwidth is defined as “the transmission capacity of a computer network or other telecommunication system,” Compact Oxford English Dictionary.

channel between the mobile terminal 100 and the radio base station 200. Therefore, the recited “communication quality” is very different from a “quantity” of communication which refers to speed or bandwidth as disclosed or taught by Uebayashi.

With respect to “communication quality,” independent claim 1 recites, among other things, a mobile terminal capable of designating a communication quality, a radio network controller connected to said radio base station to control the communication quality, a communication request reception determination unit which receives a communication request which designates a communication quality, etc. Since Uebayashi does not disclose or address communication quality (as related to error rates) in any manner, it fails to disclose at least these recited elements of claim 1. Further, since claims 2-3 depend from claim 1, these claims are also allowable at least based on their dependence from claim 1 for at least the same reasons described above.

III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No. 10/083,302

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Eric P. Halber
Registration No. 46,378

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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CUSTOMER NUMBER

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